

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*,

Defendants.

No. 1:18-cv-2921 (JMF)

**NOTICE OF MOTION TO  
WITHDRAW AS COUNSEL**

PLEASE TAKE NOTICE that, pursuant to Local Rule 1.4, defense counsel James M. Burnham respectfully requests that the Court order his withdrawal as counsel to defendants and cease sending docketing notifications via the ECF system. A motion to withdraw under Rule 1.4 turns on the reasons for counsel's withdrawal and the potential impact of that action on the timing of the proceeding. *See, e.g., Winkfield v. Kirschenbaum & Phillips, P.C.*, No. 12-CV-7424 (JMF), 2013 WL 371673, at \*1 (S.D.N.Y. Jan, 29, 2013). Mr. Burnham seeks to withdraw because he is leaving the Civil Division, and will no longer have responsibility for these cases. Because Mr. Burnham will no longer be representing the U.S. government in court in defensive civil litigation, as elaborated upon in Exhibit A, it is appropriate for him to withdraw. Furthermore, Defendants remain represented by knowledgeable and competent counsel from the Department of Justice, such that Mr. Burnham's withdrawal will have no impact on the prosecution of this suit. *See Whiting v. Lacara*, 187 F.3d 317, 320-21 (2d Cir. 1999) (*per curiam*).

Mr. Burnham will remain subject to the Court's jurisdiction for any reason related to these cases. Mr. Burnham is not retaining or charging a lien.

Respectfully submitted,

JOSEPH H. HUNT  
Assistant Attorney General

/s/ James M. Burnham  
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*Counsel for Defendants*

# EXHIBIT A

**UNITED STATES DISTRICT COURT  
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**DECLARATION**

I, James M. Burnham, make the following Declaration pursuant to 28 U.S.C. § 1746, and state that under the penalty of perjury the following is true and correct to the best of my knowledge and belief:

1. I filed my appearance in this matter on June 4, 2019.
2. On January 31, 2020, I left the Department of Justice's Civil Division to work in a different component within the Department. All of my case responsibilities have been transferred to other attorneys within the Civil Division.
3. In my new position, I will no longer be responsible for litigating defensive cases in court on behalf of the United States.
4. Given the posture of this case and the fact that both the trial team and additional attorneys remain counsel of record, my withdrawal will not impact the case.

Dated: February 4, 2020

/s/ James M. Burnham

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